

SENATE BILL No. 266

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-16-8-4.

Synopsis: Child support obligations of inmates. Provides that a noncustodial parent may petition a court to stay child support or maintenance obligations because of the noncustodial parent's incarceration. Requires a court to deny a petition if the noncustodial parent has any financial resources. Provides that if a court stays child support or maintenance payments, the stayed child support or maintenance becomes an arrearage and accrues reasonable interest. Requires a court to order the noncustodial parent to pay stayed child support when the noncustodial parent is released from incarceration.

Effective: July 1, 2008.

Becker

January 10, 2008, read first time and referred to Committee on Judiciary.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 266

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 31-16-8-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 4. (a) A noncustodial parent who is:**

(1) incarcerated; or

(2) sentenced to be incarcerated;

may not request a modification of child support or maintenance based on changed circumstance due to incarceration but may petition the court that entered a child support or maintenance order against the noncustodial parent to stay child support and maintenance payments while the noncustodial parent is incarcerated.

(b) The court shall deny a petition filed under subsection (a) if the noncustodial parent has any financial resources that may be used to pay child support or maintenance obligations while the noncustodial parent is incarcerated.

(c) If a court denies a petition under subsection (b), the court may grant a petition filed under subsection (a) to stay child support



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1 and maintenance payments only when the petitioner no longer has
2 financial resources that may be used to pay child support or
3 maintenance obligations.

4 (d) If a court stays child support or maintenance payments
5 under subsection (a):

6 (1) the stayed child support or maintenance:

7 (A) accrues with reasonable interest during the
8 noncustodial parent's incarceration; and

9 (B) becomes a child support arrearage; and

10 (2) when the noncustodial parent is released from
11 incarceration, the court shall order a payment schedule of:

12 (A) the stayed child support and maintenance; and

13 (B) reasonable interest;

14 that accrued while the noncustodial parent was incarcerated.

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